IN THE HIGH COURT OF SIKKIM

ORDER SHEET

Writ Petition (C) .....No. 19 of 2005

Sonam Wangchuk Bhutia ..... Petitioner / Appellant

Versus

State of Sikkim ..... Respondent

Serial No. of Order	Date of Order	Order with Signature	Office Note as to action (if any) taken on Order
1.	04.07.2005	Heard Mr. A. K. Upadhyaya, learned Senior Counsel assisted by Miss Manita Pradhan, learned counsel for the petitioner. Let a Rule issue, calling upon the respondents to show cause as to why an appropriate Writ should not be issued as prayed for; or why such order or orders which this Court deem it fit and proper should not be issued in the case in hand. Rule is made returnable on **04.08.2005**. No formal notice is called for upon the respondent State, as Mr. J. B. Pradhan, learned Government Advocate accepts notice. However, Ms. Manita Pradhan, learned counsel shall supply extra copy of the writ petition to the learned Government Advocate during the course of the day. N.S. ***(N. Surjamant Singh)*** ***Chief Justice (Acting)*** ***(A. P. Subba)*** ***Judge***	

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2.	04.08.2005	Upon hearing Mr. A. K. Upadhyaya, learned Senior Counsel assisted by Miss Manita Pradhan, learned counsel for the petitioner as well as Mr. S. P. Wangdi, learned Advocate General assisted by Mr. Karma Thinlay, learned Assistant Government Advocate for the State – respondent, and on perusal of ~~the report and~~ the available materials on record, we are of the view that this matter can be disposed of at this stage on its own merit with the following order :- In this writ petition, the petitioner sought for the following reliefs :- a) A Rule calling upon the respondent to show cause as to why the impugned Notice inviting tender published in Sikkim Herald dated 26th May, 2005 should not be quashed and on perusal of the causes shown, if any, to make the Rule absolute ; b) A Rule calling upon the respondent to show cause as to why the entire process of inviting the impugned tender should not be quashed and to be re-tendered only after acquiring the plots of land by due process of law and on perusal of the causes shown, if any, to make the rule absolute ; c) For any other relief or reliefs to which the petitioner may be found entitled to either in law or in equity;' By contending inter alia, that the respondent/authority	

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had issued the related notice dated 26th May, 2005 for execution of Pradhan Mantri Gram Sadak Yojana in short PMGYS in respect of construction of roads including the construction of road of Tansing to L/Tarney to L/Tiputhang (2.025 KM) Pkg II (Ph IV) 57 (16,20,24)/04-05 which has been proposed over the land under plot No.337 of Tinkitam Block, South Sikkim and the same is part of the undivided coparcenary property of the petitioner and other coparceners without acquiring the said plot of land covered by plot No.337, which according to the petitioner, it is an illegal process. The learned Advocate General at the very outset, contended that the authority had only done the survey works and the construction has not yet started, and if the land belongs to individuals, certainly, such land shall be acquired under due process of law. In our considered view, the present writ petition is premature at this stage. However, it is made clear that if the respondent/authority is to construct the road, namely, Tansing to L/Tarney to L/Tiputhang (2.025 KM) Pkg II (Ph. IV) 57 (16,20,24)/04-05, and if such construction is to be done over the plot No.337, and if the land belongs to the petitioner

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and other coparceners, we direct the respondent/authority to acquire such land if so required for public purpose in accordance with law and afford due compensation of it to the petitioner and other coparceners according to law.

With the above observations and directions, this writ petition is disposed of, but no order as to costs. Let a copy of this order be furnished to Mr. Karma Thinlay, learned Assistant Govt. Advocate so as to enable him to highlight the existence of this order to the appropriate authority.

A copy of order forwarded to Asstt. Govt Adv. on 5/8/05.
5/8/05

N. Surjamani Singh

(N. Surjamani Singh)
Chief Justice (Acting)

(A. P. Subba)
Judge